

JS 44 (Rev. 04/21)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Unitedhealthcare Insurance Company

(b) County of Residence of First Listed Plaintiff Minnetonka, Minnesota
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Kyle A. Ferachi, Hinshaw & Culbertson, LLP
5151 San Felipe, Suite 1380, Houston, TX 77056

DEFENDANTS

Josh Horton and Michelle Horton

County of Residence of First Listed Defendant Harris County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|---------------------------------------|---|---------------------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input checked="" type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander		<input type="checkbox"/> 424 Intellectual Property Rights	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability		<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle		<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability		<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice			<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 495 Securities/Commodities/Exchange
				<input type="checkbox"/> 890 Other Statutory Actions
				<input type="checkbox"/> 891 Agricultural Acts
				<input type="checkbox"/> 893 Environmental Matters
				<input type="checkbox"/> 895 Freedom of Information Act
				<input type="checkbox"/> 896 Arbitration
				<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
				<input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC § 1001 et seq. - ERISA

Brief description of cause:

INTERPRETER FOR DEATH BENEFIT CLAIM**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

2/1/2023

SIGNATURE OF ATTORNEY OF RECORD

Kyle A. Ferachi

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**UNITEDHEALTHCARE
INSURANCE COMPANY,**

Plaintiff-in-Interpleader,

v.

**JOSH HORTON and MICHELE
HORTON,**

Defendants-in-Interpleader.

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CIVIL ACTION NO. 23-349

**UNITEDHEALTHCARE INSURANCE COMPANY’S
COMPLAINT-IN-INTERPLEADER**

NOW COMES Plaintiff-in-Interpleader UnitedHealthcare Insurance Company (“UnitedHealthcare”), by its attorneys, Hinshaw & Culbertson LLP, and for its Complaint for Interpleader against Defendants Josh Horton and Michelle Horton, for interpleader and other relief states as follows:

PRELIMINARY STATEMENT

UnitedHealthcare brings this interpleader action pursuant to Fed. R. Civ. P. 22 and 28 U.S.C. § 1333 to obtain an adjudication as to the competing claims to funds which UnitedHealthcare is holding pursuant to a group life insurance policy and group accidental death and dismemberment insurance policy, which was issued to Zachary Horton’s (“Decedent”) former employer, CDI Energy Products, LLC, in conjunction with an employee welfare benefit plan within the meaning of the Employee Retirement Income Security Act of 1972 as amended, 28 U.S.C. §1001, et seq. UnitedHealthcare requests that it be allowed to deposit with the Court the

insurance proceeds at issue \$100,000 and \$109,500 totaling \$209,500, and allow the adverse claimants, Josh Horton and Michelle Horton, to litigate the issue of the rightful owner of those proceeds.

PARTIES

1. UnitedHealthcare is, and at all times relevant times was, a corporation organized and existing under the laws of the State of Minnesota, with its principal place of business in Minnetonka, Minnesota.

2. UnitedHealthcare is informed and believes, and on that basis alleges, that Defendant-in-Interpleader Josh Horton is, and at all relevant times was, a resident of Harris County, Texas.

3. UnitedHealthcare is informed and believes, and on that basis alleges, that Defendant-in-Interpleader Michelle Horton is, and at all relevant times was, a resident of Harris County, Texas. UnitedHealthcare is similarly informed, believes and therefore alleges that Michelle Horton was formerly married to the Decedent and was divorced on or about October 19, 2016.

JURISDICTION AND VENUE

4. This Court has jurisdiction to hear this matter pursuant to 28 U.S.C. § 1331, because this case involves a federal question. Specifically, Defendants-in-Interpleader's claims arise under and/or are preempted by federal law, specifically ERISA.

5. Venue is proper pursuant to 28 U.S.C. § 1391(b) in that one or more of the Defendants-in-Interpleader reside in this judicial district and a substantial part of the events giving rise to this action occurred in this district.

FACTUAL ALLEGATIONS

6. On information and belief, the Decedent enrolled in an employee benefit plan sponsored by his employer CDI Energy Products, LLC on November 3, 2021. Said plan provided life insurance benefits through group insurance issued by UnitedHealthcare through policy number 305305 (“the Policy”). Decedent designated his brother, Josh Horton, as his sole beneficiary. A true and correct copy of the relevant portions of the Policy are attached hereto as Exhibit “A.”

7. Prior to his death, Decedent was married to Michelle Horton. The marriage was dissolved through a final decree of divorce on October 19, 2016. On information and belief, a true and correct copy of the divorce decree is attached as Exhibit “B.” On further information and belief, Michelle Horton and Decedent had three children of the marriage who were all minors at the time of the divorce.

8. The October 19, 2016 divorce decree ordered that Decedent “obtain and maintain a life insurance policy on his or her life for as long as child support is ordered...[t]he person receiving child support under this order must be named as the primary beneficiary for the benefit of the children.”

9. On information and belief, at the time of Decedent’s death all three of his and Michelle Horton’s children were under the age of 18.

10. Decedent died on April 2, 2022.

11. On or about April 7, 2022, UnitedHealthcare received a claim form from Josh Horton seeking benefits from the Policy. A true and correct copy of Josh Horton’s claim form is attached hereto as Exhibit “C.”

12. On or about May 30, 2022, UnitedHealthcare received a claim form from Michelle Horton seeking benefits from the Policy. A true and correct copy of Michelle Horton’s claim form is attached hereto as Exhibit “D.”

FIRST CAUSE OF ACTION FOR INTERPLEADER
(Against All Defendants in Interpleader)

13. The terms of the Policy requires UnitedHealthcare to pay the life insurance benefits at issue to the beneficiary or beneficiaries designated at the time of Decedent's death.

14. As set forth above, Josh Horton is the primary beneficiary under the subject plan.

15. However, the October 19, 2016 divorce decree required Michelle Horton to be named as the beneficiary while child support payments were still being made.

16. Both Josh Horton and Michelle Horton have made claims for benefits under the Policy.

17. As such, UnitedHealthcare has been presented with competing and adverse claims to the benefits under the Policy. UnitedHealthcare is unable to determine which of the Defendants-in-Interpleader is entitled to the Policy's benefits and is unable to pay out the benefits to Defendants-in-Interpleader without the risk of double liability.

18. UnitedHealthcare files this interpleader claim in good faith and without any collusion with any of the parties hereto. UnitedHealthcare claims no interest in the Policy's benefits and is merely a disinterested stakeholder in this action.

19. UnitedHealthcare admits its liability under the Policy in the benefit amount of \$209,500 in basic and supplemental life insurance, plus applicable interest, and will deposit these amounts with the Court in connection with these proceedings. UnitedHealthcare is, and always has been, ready, able, and willing to pay these funds to the person(s) who may lawfully be entitled to receive them. However, UnitedHealthcare is unable to determine who is entitled to receive the benefits of the Policy without being faced with the real and reasonable potential of liability to multiple parties seeking the benefits at issue.

UnitedHealthcare has incurred, and will continue to incur, attorneys' fees and costs in connection with these proceedings.

PRAYER FOR RELIEF

WHEREFORE, UnitedHealthcare prays for judgment against Defendants-in-Interpleader, and each of them, as follows:

A. That Defendants-in-Interpleader, and each of them, be required to interplead and litigate among themselves their claims to the life insurance benefits at issue under the Policy;

B. That the Court enter an order restraining Defendants-in-Interpleader, and each of them, from instituting proceeding in any court against UnitedHealthcare and/or its agents with respect to the Policy and/or the life insurance benefits due thereunder as a result of Decedent's death;

C. That this Court enter an order setting forth the proper recipient of the benefits of the Policy;

D. That UnitedHealthcare be discharged of all liability with respect to the Policy and/or the life insurance benefits due thereunder as a result of Decedent's death and be dismissed from the action;

E. That UnitedHealthcare be awarded its costs and reasonable attorneys' fees to be determined by the Court and paid out of the stake to be deposited with the Court; and

F. For such other and further relief as the Court deems reasonable and just under the circumstances.

Dated: February 1, 2023

HINSHAW & CULBERTSON LLP

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